

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6955**

**BILL NUMBER:** HB 1111

**NOTE PREPARED:** Jan 3, 2012

**BILL AMENDED:**

**SUBJECT:** Historic Preservation Tax Credit.

**FIRST AUTHOR:** Rep. Clere

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** *Various Changes to the Historic Rehabilitation Income Tax Credit:* This bill provides that the Historic Rehabilitation Income Tax Credit may be assigned. It specifies that other than the permission to assign tax credits, the amendments to the credit apply to tax credits awarded for taxable years beginning after December 31, 2012. It provides that the credit applies to the preservation or rehabilitation of historic properties that have been vacant for at least one year. It establishes three new methodologies for determining the amount of the tax credit. (Current law provides that the credit equals 20% of the taxpayer's qualified expenses.) It provides that a property's adjusted basis is not reduced by the amount of the credit if a person is entitled to a federal low income housing credit. It increases the minimum amount of expenditures to qualify for the credit from \$10,000 to \$25,000. It provides that a project may not receive more than 20% of the annual statewide cap on the credit. The bill also phases in increases to the annual statewide cap on the credit until the cap is \$10,000,000.

*Historic Rehabilitation Credit Fund:* The bill establishes the Historic Rehabilitation Credit Fund for the deposit of the fee. It reverts the fund's balance exceeding \$1,000,000 to the state General Fund at the end of a state fiscal year.

*Division of Historic Preservation and Archaeology:* The bill requires the Division of Historic Preservation and Archeology (DHPA) of the Department of Natural Resources to reserve 20% of the available credit for projects for which the approved qualified expenditures do not exceed \$250,000. It provides that the DHPA may collect a fee of 2.5% of qualified expenses for projects with more than \$1,000,000 in qualified expenses. It specifies that the DHPA's power to adopt rules includes emergency rules. It voids a rule providing that the maximum amount of credits for a particular project is \$100,000. The bill also prohibits the DHPA from reallocating available tax credits from year to year.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *Department of State Revenue (DOR):* The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes in the tax credit. DOR's current level of resources should be sufficient to implement these changes.

*Division of Historic Preservation and Archaeology (DHPA):* The bill makes several changes to the Historic Rehabilitation Income Tax Credit. As a result, credit application forms will need to be revised, which will result in increased administrative costs. Additionally, the changes provided in the bill will increase the complexity of the application, review and certification processes.

The bill also provides for the DHPA of the Department of Natural Resources (DNR) to collect a fee that equals 2.5% of qualified expenses for projects with over \$1 M qualified expenses. The fee will be used to pay for administrative costs associated with certifying historic property for the tax credit. The fee will be charged at the point of certification when all qualified expenses are known, thus the amount of fees that will be collected is indeterminable.

**Explanation of State Revenues:** *Historic Rehabilitation Credit Fund:* The bill establishes the Historic Rehabilitation Credit Fund. The fund will include fees collected by the DHPA. Money that exceeds \$1 M will revert to the state General Fund at the end of a fiscal year.

*Historic Rehabilitation Income Tax Credit:* The bill phases in an increase in the annual state-wide limit of \$450,000 to \$10 M over a period of five years beginning in FY 2014. The limit for FY 2014 is \$2 M, \$4 M in FY 2015, \$6 M in FY 2016, \$8 M in FY 2017 and \$10 M in FY 2018. This would mean that approved projects that are currently queued as a result of the state-wide limit of \$450,000 would be able to claim their respective credit awards sooner. The queue of projects totals about \$5 M.

The bill also provides the following methodologies for determining the amount of the credit.

- (1) If the total amount of qualified expenditures is less than \$2 M, or if the property is a school, hospital, or subject to a grant received under the Indiana Main Street Program, then the credit is equal to 40% of either:
  - (A) the total amount of qualified expenditures, or
  - (B) the product of the total amount of qualified expenditures multiplied by 1.3 for property that is considered historic and is located in a difficult development area, or a qualified census tract.
- (2) For all other property, the amount of the credit is 20% of either:
  - (A) the total amount of qualified expenditures, or
  - (B) the product of the total amount of the qualified expenditures multiplied by 1.3 for property that is considered historic and is located in a difficult development area, or a qualified census tract.

These changes will affect awards being certified after the effective date of this legislation.

The bill allows a taxpayer who is entitled to claim the Historic Rehabilitation Tax Credit to assign any portion of the credit to another taxpayer. This will allow for more timely use of the credits, which means the impact will be noticed sooner than if the credit was not able to be assigned. The ability to assign these tax credits would also include those credits that are currently being carried forward within the 15-year time limit. Therefore, the actual amount of credits claimed in the near future could substantially increase. This is due to the fact that some of the prior certified credits may not have been exhausted, but under the bill could be

claimed sooner within the 15-year time limit by a credit assignee. It also could allow future credits to be used immediately by a credit assignee, versus the taxpayer to whom DNR certified the credit to the extent that the taxpayer has tax liability.

**Background Information** - Current statute provides for a nonrefundable AGI Tax credit for individual and corporate taxpayers equal to 20% of the historic preservation or rehabilitation expenditures made by the taxpayer. The expenditures must exceed \$10,000 and must be certified by the Department of Natural Resources (DNR). The tax credit is nonrefundable, but excess credits may be carried forward for 15 years. The tax credit may not be carried back.

Current statute prohibits the aggregate amount of credits certified to taxpayers by the DNR during a fiscal year from exceeding \$450,000. From FY 1995 to FY 2011, the DNR certified about \$8.1 M in credits. In addition, the DNR has already certified tax credits up to the annual aggregate credit limit (\$450,000) for each year through FY 2023. This translates into approximately \$5 M in additional tax credits to be claimed against future tax liabilities.

The ability to assign these tax credits would also include those credits that are currently being carried forward within the 15-year time limit. Therefore, the actual amount of credits claimed in the near future could substantially increase. This is due to the fact that some of the prior certified credits may not have been exhausted, but under the bill could be claimed sooner within the 15-year time limit by a credit assignee. It also could allow future credits to be used immediately by a credit assignee, versus the taxpayer to whom DNR certified the credit to the extent that the taxpayer has tax liability.

In 2007, 57 taxpayers claimed \$217,783, 48 taxpayers claimed \$153,611 in 2008, and in 2009, 39 taxpayers claimed \$99,285 in Historic Rehabilitation Tax Credits on Indiana individual income tax returns. Historic Rehabilitation Tax Credits were not claimed by corporate taxpayers in 2007, and 2008. Data for corporate taxpayers for tax year 2009 is not yet available. Revenue from the AGI Tax on individuals and corporations is distributed to the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue; Division of Historic Preservation and Archeology, Department of Natural Resources.

**Local Agencies Affected:**

**Information Sources:** OFMA Income Tax Databases; David Duvall, DHPA, 232-1635.

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